

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION**

ROBERT D. DELEE,)
)
)
Plaintiff,)
)
)
v.) **Civil Action No. 3:12CV380**
)
)
CITY OF PLYMOUTH, INDIANA,)
)
)
Defendant.)
)

STIPULATION OF VOLUNTARY DISMISSAL

Pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii), the Plaintiff, Robert D. DeLee (DeLee), and the Defendant, City of Plymouth, Indiana (Plymouth), each by their undersigned counsel, stipulate to the voluntary dismissal of this case, with prejudice, with the parties to bear their own costs, attorneys fees, and expenses except any appellate costs that Plymouth already paid to DeLee before the date that this Stipulation of Voluntary Dismissal was filed with the Court. The action is voluntarily dismissed based on a settlement agreement between Robert D. DeLee and the City of Plymouth, Indiana following a decision of the United States Court of Appeals for the Seventh Circuit, which reversed the district court's ruling in this matter in DeLee's favor.

See Robert D. Delee v. City of Plymouth, IN, No. 14-1970 Dkt. No. 24 (7th Cir. Dec. 9, 2014).

The Seventh Circuit noted that “[t]here is logic to the district court’s reasoning,” however, it concluded that “the original purpose of Plymouth’s longevity pay for police was to reward them

for lengthy service and that that purpose survived the subsequently-enacted proration ordinance.”

Id. at 11, 19. Consequently, “there is no question that a full longevity payment would have accrued but for his leave of absence.” *Id.* at 18. The action is so dismissed.

Respectfully submitted,

DAVID CAPP
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/s/ Wayne T. Ault

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Counsel for Plaintiff Robert D. DeLee

Counsel for Defendant City of Plymouth, Indiana

CERTIFICATE OF SERVICE

I certify that on this 3rd day of April, 2015, I electronically filed the foregoing Stipulation of Voluntary Dismissal using the CM/ECF system which sent notification of such filing to Sean Surrisi, counsel for defendant.

/s/ Wayne T. Ault
Wayne T. Ault
Assistant United States Attorney